Public Health Appeal Board

Annual Report 2009

Government of Alberta

For further information

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Public Health Appeal Board Members

Sharon Cox - High Prairie
Chair

Ms. Cox runs a mixed farming operation with her children and is a former registered nursing assistant. She is a past chairperson for the Keeweetinok Lakes regional health authority (1994 – 2001) and enjoys volunteering for various community groups.

William (Bill) Steinburg - Spruce Grove
Vice-chair

Mr. Steinburg is currently serving his fourth term as alderman for the city of Spruce Grove and has held position of mayor for one term. Bill is a health care consultant and holds a bachelor of Health Services Administration degree. He is semi retired as manager of Medical Imaging with a background in finance administration and capital projects.

Lillian Douglass – Edmonton

Ms. Douglass is adjunct associate professor at the University of Alberta where she also served as associate dean. She has served on a number of boards at the provincial, national, and international levels. Her varied professional pursuits have taken her to areas in Africa and Southeast Asia to assist with mounting undergraduate and graduate nursing education programs. Lillian is a recipient of the Alberta Centennial Medal.

Kenneth Hodgins – Fort Saskatchewan
Alternate Vice-Chair

Mr. Hodgins' background is in the Men's Wear retail business for 35 years – 27 years as owner/operator. Ken has been active in many community organizations. Ken served 18 years on municipal council - 9 years as alderman and 9 years as mayor of Fort Saskatchewan. Ken recently retired as executive director of the Fort Saskatchewan Chamber of Commerce.

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Background

The Public Health Appeal Board (the Board) was established February 03, 1999 under the amended *Public Health Act*. The Board replaced the former Public Health Advisory and Appeal Board established in 1985.

The Board is subject to general rules of administrative law and natural justice as they apply to quasi-judicial tribunals.

Donald R. Cranston, Q.C., of the law firm Bennett Jones LLP provides the Board with independent legal counsel.

Duties

The Board is a panel of not more than five members appointed by the Lieutenant Governor in Council. The mandate of the Board is to hear appeals from individuals who have been directly affected by a decision of a regional health authority (RHA). Those decisions are related primarily to orders issued pursuant to section 62 of the *Public Health Act*.

The Board may call upon technical experts and professionals to assist and provide them with specific knowledge in areas related to an appeal. At the completion of an appeal, the Board gives written notice of its decision. It may:

- confirm, reverse or vary the decision of the RHA or
- refer the matter back to the RHA for further consideration.

2009 APPEAL APPLICATIONS – HEARING – DISPOSITIONS

Regional Health Authority 2008	Appeal Applications	Date of Appeal mm/dd/yyyy	Appeal Withdrawn	Decision	Comments
East Central	20/2008	11/27/2008	Withdrawn		
	21/2008	12/02/2008	Withdrawn		
Capital Health	17/2008	10/20/2008		Upheld	Owner to complete repairs
	18/2008	10/31/2008		Sent back	Referred back for redetermination of date

Alberta Health Services 2009	Appeal Applications	Date of Appeal mm/dd/yyyy	Appeal Withdrawn	Decision	Comments
Zone 1 South	Nil	n/a	n/a	n/a	n/a
Zone 2 Calgary	01/2009	02/19/2009		Upheld	Owner to complete repairs
	05/2009	05/19/2009		Upheld	Owner to complete repairs
	06/2009	06/10/2009		Upheld	Owner to complete repairs
	18/2009	09/25/2009		Upheld	Owner to correct condition
	21/2009	12/14/2009			Hearing scheduled January 5, 2010
Zone 3 Central	09/2009	08/14/2009	Withdrawn		
	11/2009 – 15/2009	09/08/2009		Upheld	Owner to complete repairs
	16/2009	09/10/2009		Upheld	Owner to complete repairs
	17/2009	09/16/2009	Withdrawn		
	20/2009	10/20/2009		Varied	Structural engineer's report not required
Zone 4 Edmonton	02/2009	04/01/2009	Withdrawn		
	07/2009	07/13/2009	Withdrawn		
	08/2009	08/10/2009			Order rescinded and file closed
	10/2009	08/19/2009		Upheld	Owner to correct conditions
	19/2009	10/07/2009		Upheld	Owner to complete repairs
Zone 5 North	03/2009	04/23/2009			Order rescinded and file closed
	04/2009	04/23/2009	Withdrawn		

Appeal Activities and Summaries

The following is a summary of all appeals or applications received and/or heard by the Board from October 20, 2008 to December 31, 2009. Orders were issued by the executive officer of the regional health authority named as per the following:

17/2008 – Capital Health

Appeal of the order under Section 62 of the *Public Health Act*, declaring the premises unfit for human habitation and requiring the owner to correct a number of conditions of the premises by a specified date.

Hearing held November 7, 2008
The Board upheld the order. The appellant was to correct the conditions identified in the order to the satisfaction of an executive officer of Capital Health.

18/2008 – Capital Health

Appeal of the order under Section 62 of the *Public Health Act*, requiring the owner to correct a number of conditions of the premises by a specified date.

Hearing held December 19, 2008
The Board referred the order back to Capital Health to determine a reasonable time frame to have the windows bought and installed, as the time period in the order was considered too short.

20/2008 – East Central Health

Appeal of the order under Section 62 of the *Public Health Act*, requiring the owner of the premises to remove RV units contained on these lands, prohibit occupancy and ensure premises have obtained sewage, electrical, fire and building permits, close the premises until such time as the conditions referred to have been rectified to the satisfaction of an executive officer of the East Central Health Region.

The appellant withdrew the appeal.

21/2008 – East Central Health

Appeal of the order under Section 62 of the *Public Health Act*, requiring the owner of the premises to remove RV units contained on these lands, prohibit occupancy and ensure premises have obtained sewage, electrical, fire and building permits, close the premises until such time as the conditions referred to have been rectified to the satisfaction of an executive officer of the East Central Health Region.

This matter was adjourned for ninety days on the condition that no persons reside within the subject building during the period of adjournment.

The appellant withdrew the appeal on April 6, 2009.

01/2009 – Alberta Health Services – Z2 Calgary

Appeal of an order under Section 62 of the *Public Health Act*, requiring the owner to correct a number of conditions of the premises by a specified date and the premises to remain unoccupied by the public until such time that the work is completed to the satisfaction of an executive officer of Alberta Health Services – Z2 Calgary.

Hearing held March 18, 2009
The Board upheld the order. The appellant was to correct the conditions identified in the order to the satisfaction of an executive officer of Alberta Health Services – Z2 Calgary.

02/2009 - Alberta Health Services – Z4 Edmonton

Appeal of the May 2, 2002 order under Section 62 of the *Public Health Act*, declaring the premises unfit for human habitation and requiring the premises to be vacated by a specified date and to not permit occupancy until authorized by an executive officer of Alberta Health Services – Z4 Edmonton.

The appellant withdrew the appeal.

03/2009 – Alberta Health Services – Z5 North

Appeal of the order under Section 62 of the *Public Health Act*, requiring the owner to correct deficiencies concerning moisture damage and requiring the premises to be vacated by a specified date and to not permit occupancy until authorized by an executive officer of Alberta Health Services – Z5 North.

The order was rescinded and no longer a decision to be considered by the Board on appeal.

04/2009 – Alberta Health Services – Z5 North

Appeal of the order under Section 62 of the *Public Health Act*, requiring the owner to immediately cease serving donair meat until satisfactory completion of the Food Safe Course and to not open the premises until authorized by an executive officer of Alberta Health Services – Z5 North.

The appellant withdrew the appeal.

05/2009 – Alberta Health Services – Z2 Calgary

Appeal of the order under Section 62 of the *Public Health Act*, requiring the owner to ensure the current tenant and future tenants not use the room in question for sleeping purposes as it lacks a window or door opening to the exterior of the building.

Hearing held July 9, 2009
The Board upheld the order. The appellant was to correct the conditions identified in the order to the satisfaction of an executive officer of Alberta Health Services – Z2 Calgary.

06/2009 – Alberta Health Services – Z2 Calgary

Appeal of the order under Section 62 of the *Public Health Act*, requiring the owner pursue to reconnect the gas service to the premises, repair water damaged walls, and hire a pest control company for removal of bed bugs.

Hearing held July 8, 2009
The Board upheld the order. The appellant was to correct the conditions identified in the order to the satisfaction of an executive officer of Alberta Health Services – Z2 Calgary.

07/2009 – Alberta Health Services – Z4 Edmonton

Appeal of the order under Section 62 of the *Public Health Act*, declaring the housing premises unfit for human habitation and requiring the tenant to vacate the premises immediately. The owner is to correct the conditions identified in the order to the satisfaction of an executive officer of Alberta Health Services – Zone 4 Edmonton.

The appellant withdrew the appeal.

08/2009 – Alberta Health Services – Z4 Edmonton

Appeal of the order under Section 62 of the *Public Health Act*, requiring the owner of the premises to repair a number of conditions identified in the order by specified dates and not to allow further occupancy of the premises if it becomes vacant.

The order was rescinded and no longer a decision to be considered by the Board on appeal.

09/2009 – Alberta Health Services – Z3 Central

Appeal of the order under Section 62 of the *Public Health Act*, requiring the occupant to vacate the housing premises by a specified date.

The appellant withdrew the appeal.

10/2009 – Alberta Health Services – Z4 Edmonton

Appeal of the order under Section 62 of the *Public Health Act*, requiring the owner to comply with a number of requirements such as repair or replace coolers, keep perishable foods in the cooler or freezer, proper thawing of foods, proper hand washing practices, etc. at the facility by specified dates.

Hearing held September 18, 2009
The Board upheld the order. The appellant was to correct the conditions identified in the order to the satisfaction of an executive officer of Alberta Health Services – Z4 Edmonton.

11/2009 – Alberta Health Services – Z3 Central

Appeal of the order under Section 62 of the *Public Health Act*, declaring the premises unfit for human habitation and requiring the tenants to vacate the housing premises by a specified date.

Hearing held September 17, 2009 concurrent with Appeals 12/2009 – 16/2009

The Board upheld the order. The owner of the housing premises was to correct the conditions identified in the order to the satisfaction of an executive officer of Alberta Health Services – Z3 Central.

12/2009 – Alberta Health Services – Z3 Central

Appeal of the order under Section 62 of the *Public Health Act*, declaring the premises unfit for human habitation and requiring the tenants to vacate the housing premises by a specified date.

Hearing held September 17, 2009 concurrent with Appeals 11/2009 and 13/2009 – 16/2009

The Board upheld the order. The owner of the housing premises was to correct the conditions identified in the order to the satisfaction of an executive officer of Alberta Health Services – Z3 Central.

13/2009 – Alberta Health Services – Z3 Central

Appeal of the order under Section 62 of the *Public Health Act*, declaring the premises unfit for human habitation and requiring the tenants to vacate the housing premises by a specified date.

Hearing held September 17, 2009 concurrent with Appeals 11/2009 – 12/2009 and 14/2009 – 16/2009

The Board upheld the order. The owner of the housing premises was to correct the conditions identified in the order to the satisfaction of an executive officer of Alberta Health Services – Z3 Central.

14/2009 – Alberta Health Services – Z3 Central

Appeal of the order under Section 62 of the *Public Health Act*, declaring the premises unfit for human habitation and requiring the tenants to vacate the housing premises by a specified date.

Hearing held September 17, 2009 concurrent with Appeals 11/2009 – 13/2009 and 15/2009 – 16/2009

The Board upheld the order. The owner of the housing premises was to correct the conditions identified in the order to the satisfaction of an executive officer of Alberta Health Services – Z3 Central.

15/2009 – Alberta Health Services – Z3 Central

Appeal of the order under Section 62 of the *Public Health Act*, declaring the premises unfit for human habitation and requiring the tenants to vacate the housing premises by a specified date.

Hearing held September 17, 2009 concurrent with Appeals 11/2009 – 14/2009 and 16/2009

The Board upheld the order. The owner of the housing premises was to correct the conditions identified in the order to the satisfaction of an executive officer of Alberta Health Services – Z3 Central.

16/2009 – Alberta Health Services – Z3 Central

Appeal of the order under Section 62 of the *Public Health Act*, declaring the premises unfit for human habitation and requiring the owner to discontinue the use of the recreational room in the basement as a bedroom, discontinue the use of the building as a rooming or lodging house, to ensure a number of conditions are corrected in each of the bedrooms and requiring the tenants to vacate the premises until the conditions identified in the order are corrected to the satisfaction of an executive officer of Alberta Health Services – Z3 Central.

Hearing held September 17, 2009 concurrent with Appeals 11/2009 – 15/2009

The Board upheld the order. The owner of the housing premises was to correct the conditions identified in the order to the satisfaction of an executive officer of Alberta Health Services – Z3 Central.

17/2009 – Alberta Health Services – Z3 Central

Appeal of the order under Section 62 of the *Public Health Act*, requiring the owner of a public place to immediately close the food establishment until such time as an executive officer of Alberta Health Services – Z3 Central allows re-opening.

The order was rescinded and the appellant withdrew the appeal.

18/2009 – Alberta Health Services – Z2 Calgary

Appeal of the order under Section 62 of the *Public Health Act*, requiring the owner of the premises to correct the condition of bed bug infestation identified in the order to the satisfaction of an executive officer of Alberta Health Services – Z2 Calgary.

Hearing held October 16, 2009
The Board upheld the order. The appellant was to correct the conditions identified in the order to the satisfaction of an executive officer of Alberta Health Services – Z2 Calgary.

19/2009 – Alberta Health Services – Z4 Edmonton

Appeal of the order under Section 62 of the *Public Health Act*, requiring the owner of the premises to repair a number of conditions identified in the order by specified dates and not to allow further occupancy of the premises if it becomes vacant.

Hearing scheduled for November 5, 2009
Appellant did not attend and the hearing was adjourned.

Hearing held November 23, 2009
The Board upheld the order. The appellant was to correct the conditions identified in the order to the satisfaction of an executive officer of Alberta Health Services – Z4 Edmonton.

20/2009 – Alberta Health Services – Z3 Central

Appeal of the order under Section 62 of the *Public Health Act*, requiring the owner of the premises to repair a number of conditions identified in the order and for the premises to remain vacant until these conditions are corrected to the satisfaction of an executive officer of Alberta Health Services – Z3 Central.

Hearing held November 12, 2009
The Board varied the order. The Appellant is to correct the nuisance conditions identified in the order to the satisfaction of an executive officer of Alberta Health Services – Z3 Central. The structural engineer's report is not required.

21/2009 – Alberta Health Services – Z2 Calgary

Appeal of two orders under Section 62 of the *Public Health Act*, requiring the owner to immediately close the food establishments and to correct a number of conditions identified in the order to the satisfaction of an executive officer of Alberta Health Services – Z2 Calgary.

Hearing not completed. Final details will be provided in next year's Annual Report.

Other Activities

Board members attended educational courses provided through
The Foundation of Administrative Justice. These courses provide a valuable overview of essential practices and components of conducting Board hearings. Attending courses of this nature are essential to ensuring fairness and credibility in decision making.